

Par. 1 **Material Transmitted and Purpose** – Transmitted with this Manual Letter are changes to Service Chapter 447-10, IV-E Foster Care Eligibility Manual. This manual letter supersedes PI-13-02.

New language has been underlined and the old language has been struck through.

Agency Stewardship as the SSI/~~SSDS~~ Social Security Organizational Representative Payee 447-10-20-20-20

Definitions:

Social Security Administration (SSA): is an independent Federal government agency that administers two major benefit programs.

RSDI Benefits – Retirement, Survivors and Disability Insurance:

Benefits paid by SSA under Title II of the Social Security Act. These are commonly called **social security (SSA)** benefits. They are based on the earnings of a worker who has paid into the system by paying Federal Insurance Contributions Act (FICA) tax for a specified period of time. A worker, or his or her family, can receive RSDI benefits upon the worker's attainment of a certain retirement age, disability, or death.

SSI Benefits – Supplemental Security Income: Benefits paid by SSA under Title XVI of the Social Security Act for aged, blind, and disabled persons with little or no income or resources.

Representative Payee – an individual or organization appointed by SSA to receive and manage the **social security** or **SSI** benefits of another person. A representative payee must use the funds they manage for the exclusive use and benefit, and in the best interest of the beneficiary.

Representative Payees are categorized into two broad groups:

- **Individual payees** – These include relatives, guardians, friends, or any other interested person who is in a position to care for the beneficiary.
- **Organizational payees** – These can include social service agencies, institutions, State or local government agencies, or financial institutions.

Please refer to the Social Security Administration website for a complete description of Representative Payee responsibilities.

North Dakota policy is that the ~~county~~ agency responsible for a child in care who is or becomes ~~an a Social Security Insurance~~ (SSI) ~~SSDS or Social Security (SS or SSA) benefit~~ recipient shall apply to the Social Security Administration (~~SSA~~) to become the Organizational Representative Payee for the child's SSI/~~SSDS~~ SSA payments during the time the child is in placement. ~~SSI/SSDS payments for the child are then received by the county agency and applied to the cost of the child's care; including irregular care costs; any amounts not expended for such care are to be placed in trust for the child. Upon the child's return home, a representative payee who is no longer serving as a payee must turn over any conserved benefits, savings, or other investments and any interest earned on the benefits to SSA. SSA will reissue the returned benefits to either a new representative payee or to a beneficiary currently receiving direct payment. The Social Security Administration requires periodic reports of such Representative Payee stewardship.~~

There are three exceptions to the agency becoming the organizational representative payee

1. The agency has applied to become the organizational representative payee and the request is denied by Social Security Administration. In this situation, the agency must send a written request to the representative payee notifying them of the agency's custody and request the SSI or Social Security benefits received on behalf of the child be forwarded to the agency to be applied toward the cost of the child's care.
2. The current representative payee is willing to fully cooperate and has agreed to forward the SSI or Social Security benefits received on behalf of the child to the agency. In this situation, some form of an agreement of understanding should be outlined and signed by both parties. The agency should send Social Security Administration a copy of the custody order, the agreement with the current representative payee and an explanation of the child's current living arrangement for their records.
3. Short term placement as defined below.

NOTE: In exceptions 1 and 2, if the current representative payee refuses or fails to forward the benefit amount to the county, the agency must contact

Social Security Administration and notify them of the representative payee's failure to cooperate.

Prior to an agency's request to become the Organizational Representative Payee, the best interest and needs of the child must be considered, as does the effect it may have on their social security eligibility.

To apply to be an organizational representative payee, contact the local Social Security Administration office. They will be able to explain the requirements and provide the necessary forms for becoming an organizational representative payee. It may be necessary for a specific representative from the agency to handle this function each time. It takes approximately 30-60 days, possibly more, for the representative payee to be changed.

Short Term Placements

The definition of short term placement is a placement in foster care that is generally 60 days or less.

In the event of a short term placement, it would **not** be considered in the best interest of the child and the family for the agency to become the organizational representative payee of the child's Social Security or SSI benefits. This is due to the amount of time it takes for Social Security Administration to make the representative payee change and that a bank account must be established for direct deposit of the funds. Also, by changing the representative payee, it may cause a delay of benefits to the child if the agency should receive the payment after the child has already returned home. If this is the case, benefits must be returned to Social Security Administration to be reissued.

If the child's placement covers a full calendar month, it will be necessary for the agency to request reimbursement of the Social security or SSI benefits from the family member or representative payee that receives the Social Security or SSI benefits on behalf of the child. Those funds must be applied toward the care costs of the child for that month.

Example: Child entered care on July 15th; it is the intent to return the child to the home sometime in September. July 15th to July 31st is considered a partial month and the agency would not request reimbursement of July's social security benefits. Starting August 1st through August 31st, it will be necessary to request the child's August

Social Security or SSI benefits be turned over to the agency to be applied toward the care costs of the child for that month unless it was otherwise determined the money be used to meet personal needs of the child. At this point, it should be determined if the child will, in fact, return home or stay in care.

If the child is expected to return home, the case manager will evaluate the child's needs. The current needs of the child for reunification purposes requiring monetary funding should be relayed to the representative payee. It is expected the representative payee will make efforts to meet those needs using the child's social security benefits for the month. In September the agency would not request reimbursement of the foster care expenditures due to using September benefits to meet the child's needs upon returning to the home.

EXTENDED PLACEMENTS

If the child is not expected to return home or it is determined at any time during a short term placement the child will continue in care, the agency should apply to become the organizational representative payee with the exception of #1 or #2 listed above.

DIRECT DEPOSIT

When an agency becomes an organizational representative payee, a checking or savings accounts at a bank, credit union, or financial institution must be set up for direct deposit of the funds. Contact your local financial institution to discuss options. Organizational representative payees do not have the option of a Direct Express Card.

ACCOUNT TITLING AND TYPES OF BANK ACCOUNTS

Accounts must be established in a way that shows the beneficiary owns the account and the payee have only a fiduciary interest.

Do not use a joint account format because this allows a beneficiary direct access to their funds.

When establishing the account, use the name of the organization on the title, not the name of an individual employee.

Here are two recommended titles:

"(Beneficiary's name) by (agency name), representative payee," or
"(agency name), representative payee for (beneficiary's name)."

Although these are the most common methods of identifying accounts, other account titles, which show beneficiary ownership and the agency as fiduciary, are acceptable. When in doubt, ask your bank.

Try to set up an account that earns interest, minimizes fees and helps keep clear records.

If an agency serves as an organizational representative payee for a large number of beneficiaries, Social Security Administration may allow them to establish a collective account. Payments may be deposited into a master checking or savings account with individual sub-accounts for each beneficiary. This kind of account is called a collective account. Do not confuse this kind of account with your organization's operating account. **An agency may not mix a beneficiary's funds with the agency's funds.**

Social Security Administration must approve a collective account before it is set up. Therefore, contact your local Social Security Administration office for guidance. The office will ensure that the collective account is established in accordance with SSA rules.

HOW TO APPLY FOR DIRECT DEPOSIT

Beneficiaries or representative payees receiving benefits on behalf of a beneficiary with an established bank or credit union account can sign up by calling 1-800-333-1795.

To apply for direct deposit, the recipient will be required to have an existing financial institution account and provide the following:

- Account type: checking or savings
- Account number
- Financial institution's routing number
- Social Security number of the beneficiary

APPLYING SOCIAL SECURITY AND SSI PAYMENTS

In general, ~~SSI/SSDS~~ Social Security funds for the child are to be applied to the cost of the child's care, including irregular care costs, and meeting the personal needs of the child. As payee, the beneficiary's Social Security or SSI funds may not be used for anything other than his or her use and benefit. But more than that, the payee must use reasoned judgments and use the funds in the beneficiary's *best interest*. To be able to do this, the payee must be aware of the beneficiary's basic current and reasonably foreseeable needs.

"Current and foreseeable needs" means primarily food, shelter, clothing, and medical expenses not covered by Medicare, Medicaid or provided by a residential institution. Once the current and foreseeable needs have been satisfied, a payee may use the remaining funds for the beneficiary's personal comfort items, recreation and miscellaneous expenses.

It is recommended that an agency should establish internal procedures and guidelines governing how beneficiary funds will be managed. These internal procedures should also include internal controls to help ensure the integrity and accuracy of the accounting system. The Social Security website provides a brief description of common practices.

The Social Security Administration requires the representative payee to complete a Representative Payee Report about once every year. It will be necessary for the agency to keep accurate records for reporting how the beneficiary's benefits were spent over a specific time frame indicated on the report.

At least \$30 per month of the Social Security or SSI funds should be set aside and spent for the personal needs of the beneficiary. If the beneficiary is receiving SSI benefits and living in an institution, this is required by the Social Security Administration.

The \$30 per month "personal needs" funds may not be used to buy items that the institution ordinarily provides, or for items that are paid for by a State or Federal program. See the "Guide for Organizational Rep Payees" on the Social Security Administration website for examples of appropriate personal needs spending

Social Security (SSA) benefits are considered unearned income for the child. The benefit amount received for a specific month is to be applied toward the care costs of the child for the same month. A personal needs amount of \$30 should be retained. The balance of the monthly Social Security benefit must be counted as a receivable toward the monthly standard and irregular payment expended during the month. Any amount in excess of the standard and irregular expenses in a given month is to be retained and may be used for the personal needs of the child. Payments should be in the form of a cashier check or money order payable to the Department of Human Services, along with an SFN 827 Credit Form.

SSI VERSUS TITLE IV-E OR EA FUNDING SOURCE

In the case of children who are eligible for both SSI and Title IV-E or EA funding eligible, an important part of ~~this the~~ agency stewardship is determining which federal funding source to elect for the foster care income maintenance costs. ~~The point of electing IV-E payments over SSI is that the may in some cases be substantially higher than from SSI, or vice versa. Such an election is possible because, on request of the Representative Payee,~~

The Social Security Administration must be notified of the child's placement, the amount expended for the child's care and which funding source will be used. An agency cannot claim both SSI and Title IV-E or EA. suspend SSI payments temporarily. If the child's living arrangement should change and it affects the amount expended, consideration must again be given to the federal funding source. Social Security Administration must be notified so adjustments can be made. and reinstate them on request of the agency. If the child returns home or to a non-paid foster care placement, Social Security Administration must be notified immediately so benefits can be redetermined and reinstated to the full allowable amount as soon as possible.

NOTE: ~~that~~ if SSI payments are offset past the annual SSI review/renewal date, resumption of SSI payments may require a redetermination or review.

NOTE: ~~also that suspended offset~~ SSI payments are permanently lost to the child or agency, not merely delayed or "banked."

The first and primary concern of the representative payee in this decision must always be the interests of the child. SSI should not be suspended offset if (a) the SSI payments are significantly greater than the cost of the child's foster care and the child's appropriate access to the difference would be impaired; (b) the foster care placement is expected to be very short term and reinstating SSI payments would disrupt the child's support; or (c) for any reason it is known that offsetting SSI payments would jeopardize future eligibility for such benefits by the child.

~~However Consider the following when determining which funding source to use. when the costs of the child's care are substantially higher than the SSI payment amount, the child's SSI payments would be fully absorbed by the care. anyhow. In such cases, t~~The agency should ~~also~~ consider the fiscal interest of the state in electing IV-E or EA funding in lieu of SSI payments as well as the child's cost of care. i.e.suspending the SSI payments and claiming IV-E. As a rule of thumb, whenever the cost of care is double the child's

monthly SSI payment, it will always be in the State's fiscal interest to ~~suspend offset~~ SSI and claim IV-E ~~or EA funding~~. (In 1999, the IV-E income maintenance federal share is about 70%, so ~~that~~ it is currently in the state's fiscal interest to claim IV-E whenever the cost of care equals more than 170% of the SSI payment.)

EXAMPLE 1: A disabled child in residential care receives monthly SSI of \$552. The cost of care for this child is \$1500 per month, which the state partially offsets with the \$552 SSI received as Organizational Representative Payee. It is in the fiscal interest of the state to ~~suspend offset~~ the SSI and claim IV-E income maintenance instead, which will bring $\$1500 \times 70\% = \1050 per month federal to the state – twice as much as the \$552 SSI.

EXAMPLE 2: A disabled child in foster care receives monthly SSI of \$552. The child's therapeutic foster care costs the state \$600 per month. It is in the state's interest to retain the \$552 SSI, since IV-E or EA would bring less: $\$600 \times 70\% = \420 .

EXAMPLE 3: A disabled child in foster care receives monthly SSI of \$552.00. The child's family foster care costs ~~the state is~~ \$357.74 per month. The cost of care is less than the SSI, therefore, we would ~~want to~~ continue the SSI for the child. ~~If it is in the best interest of the child,~~ ~~the~~ agency would need to apply to become the payee for the SSI and each month submit the care cost of \$357.74 to the state. The remaining balance of \$194.26 would then be put into an established savings account for the child. In this same instance, \$100.00 child care costs are also being paid for as an irregular expense. \$100.00 would be sent into the state for reimbursement of this expense and the remaining balance of \$94.26 would be deposited into the child's ~~savings bank~~ account.

Even ~~where when~~ the federal claim is only marginally above the SSI amount, the IV-E ~~or EA~~ election may be wise. Placements of disabled children are more frequently longer-term than others, and the cumulative state costs of making the "wrong" IV-E ~~or EA~~ versus SSI election can be enormous over time. Given the potential fiscal consequences, county staff should seek supervisory or state office guidance where judgments on this election seem particularly difficult.

NOTE: ~~that~~ regardless whether SSI or IV-E is claimed for the foster care cost, IV-E administration will be claimed for this case. This is

accomplished by counting such a case either as a IV-E reimbursable case (FM), or as one which is IV-E eligible but not IV-E reimbursable (FN) for the months in which SSI is claimed.

EXCESS SOCIAL SECURITY AND SSI FUNDS

As organizational representative payee, the agency must deposit any amounts not expended for such care or personal needs in an account for the child. Upon the child's return home discharge from foster care, the organizational representative payee must turn over any conserved benefits, savings, or other investments and any interest earned on the benefits to Social Security Administration. Social Security Administration will reissue the returned benefits to either a new representative payee or to a beneficiary currently receiving direct payment. The Social Security Administration requires periodic reports of such Representative Payee stewardship.

MATCH SYMBOL FM/FN OR EA/RM

The federal funding source affects both Title IV-E (FM) and Emergency Assistance (EA) match children. The funding source can change throughout the child's foster care episode based on the placement expenditures, the length of the placement and if it is in the best interest to make the change. When a child is SSI and IV-E eligible (FM) or determined Emergency Assistance (EA), the match symbol used when authorizing payments is based on the funding source claimed at the time of payment.

When SSI is claimed, the child's match symbol must be changed from FM to FN or EA to RM. Social Security Insurance (SSI) federal funds through the United States Treasury's general fund, and match symbols FM and EA are partially funded with federal funds. The child remains Title IV-E eligible or EA eligible, but not reimbursable. Therefore a change must be made to the match symbol to eliminate drawing federal funds from two sources.

If SSI has been suspended, IV-E is claimed, the child is IV-E eligible and IV-E reimbursable. Therefore their match symbol is FM.

Resources:

The Official Website of the U.S. Social Security Administration

<http://www.ssa.gov/>

Training Organizational Representative Payees

<http://www.ssa.gov/payee/LessonPlan-2005-2.htm#WHATISORG>

Guide for Organizational Payees -
<http://www.ssa.gov/payee/NewGuide/toc.htm>

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